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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas

NOV 02 2001

Kelley A. Wilby
Clerk of Court

EDWARD ALCALA, et.al.,
Plaintiffs,

v.

ALEX PEREZ, in his official capacity
as Sheriff of Cameron County, Texas,
and CAMERON COUNTY, TEXAS,
Defendant.

CIVIL ACTION NUMBER B-96-203

UNOPPOSED MOTION TO STAY

Defendant ask the Court to stay the execution of judgment during the pendency of the appeal from Final Judgment in this case without supersedeas bond.

- 1 A judgment debtor is entitled to a stay of execution in federal court in a "... state in which a judgment is a lien upon the property of the judgment debtor and in which the judgment debtor is entitled to a stay of execution. . . ." FRCP, Rule 62(f).
- 2 In Texas a county is not required to file an appeal bond to supersede the trial court judgment on appeal. V.T.C.A., CP&R Code, Section 6.001(a)&(b)(4).
- 3 In lieu of a lien, a judgment is paid from the general fund of a county "The commissioners court shall settle and pay a judgment against the county in the same manner and pro rata as other similar claims are settled and paid by the court. . . ." V.T.C.A., Loc. Govn Code, Section 89.006. Mandamus is proper remedy to compel members of a commissioners court to perform their ministerial duty of allowing, classifying and providing for payment of a claim against county based upon a judgment. *Paschall v.*

Renshaw, 140 S.W.2d (Civ.App. 1940).

4. Defendant has timely filed its Notice of Appeal.

For the foregoing reasons Defendant would ask the Court to stay execution of judgment during the pendency of this appeal without supersedeas bond.

Respectfully,

For Cameron County
Cameron County Civil Legal Department
964 East Harrison Street
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BY: 

Richard O. Burst
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CERTIFICATE OF SERVICE

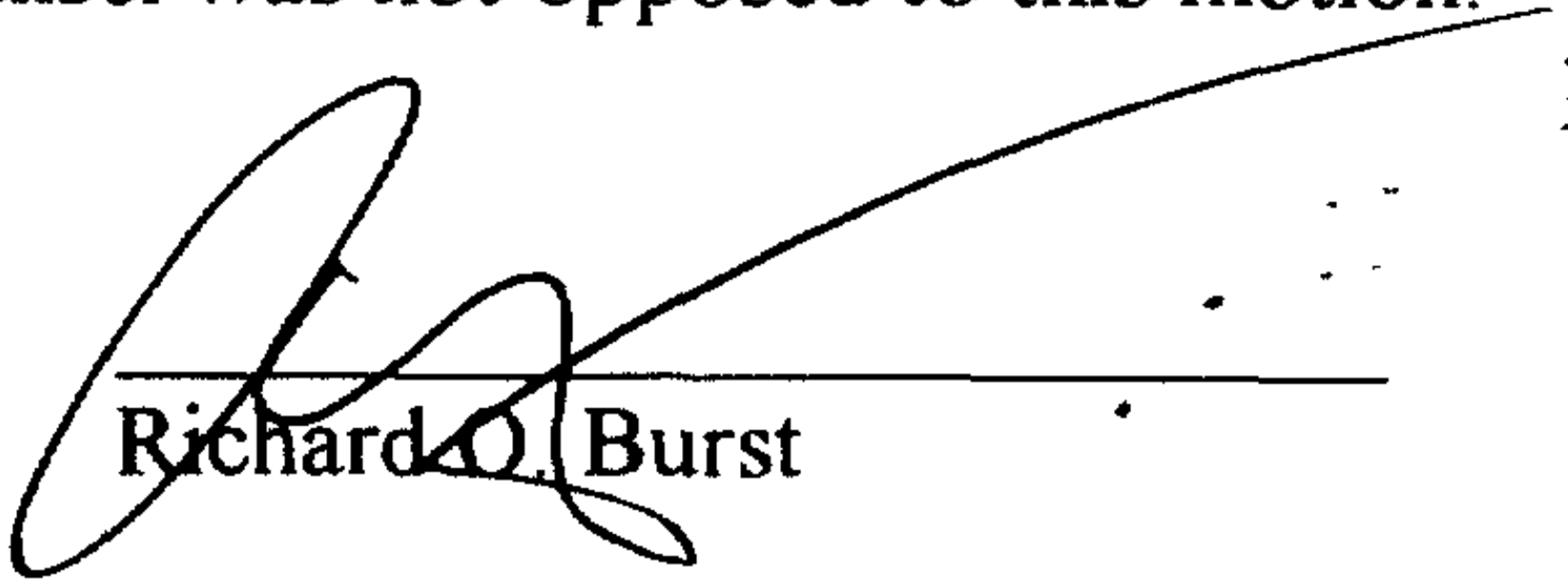
I, Richard O. Burst do hereby certify that on this 2nd day of November, 2001, a true and correct copy of the foregoing Motion has been mailed, certified, return receipt requested to

George P. Powell
HINOJOSA & POWELL, P.C
612 Nolana, Suite 410
McAllen, Texas 78504


Richard O. Burst

CERTIFICATE OF CONFERENCE

The undersigned discussed this motion with Counsel and given the Texas law requiring payment of judgments by a county, Plaintiffs' Counsel was not opposed to this motion.



Richard O. Burst